



## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[Docket No. TTB-2021-0005]

[T.D. TTB-181; Ref: Notice No. 202]

RIN: 1513-AC81

### Establishment of the Paulsell Valley Viticultural Area

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the 34,155-acre “Paulsell Valley” viticultural area (AVA) in Stanislaus County, California. The Paulsell Valley viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

#### SUPPLEMENTARY INFORMATION:

##### Background on Viticultural Areas

##### *TTB Authority*

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations

for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

#### *Definition*

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an

AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

### *Requirements*

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

### **Paulsell Valley AVA Petition**

TTB received a petition from Patrick Shabram, on behalf of Rock Ridge Ranch, proposing the establishment of the “Paulsell Valley” AVA. The proposed AVA is located in Stanislaus County, California, and is not within any established AVA. The proposed AVA covers 34,155 acres and includes 3 commercial

vineyards covering a total of approximately 826 acres. The petition notes that a fourth vineyard is planned that would include an additional 700 acres of vines. The petition identifies the distinguishing features of the proposed Paulsell Valley AVA as its topography, climate, and soils.

The proposed Paulsell Valley AVA is located in a valley carved by Dry Creek in and around the unincorporated community of Paulsell, California. The topography of the proposed AVA is dominated by rolling hills marked by cut arroyos and interspersed with steep, isolated hills. This type of topography is referred to as a “mound-intermound relief.” Elevations within the proposed AVA are between 140 and 612 feet, with most of the proposed AVA in the 180–400 foot range. According to the petition, the gentle slopes of the proposed AVA ensure good drainage for vineyards, while the isolated nature of higher mounds within the proposed AVA decrease shadows on the valley floor and allow most vineyards to receive long hours of solar radiation.

To the north of the proposed Paulsell Valley AVA is the floodplain of the Stanislaus River. Along the floodplain are alluvial terraces and fans that differ from the mound-intermound topography of the proposed AVA. Elevations to the north of the proposed AVA are generally below 300 feet. East of the proposed AVA are the Sierra Nevada Mountains, which can rise to several thousand feet. South of the proposed AVA is the Modesto Reservoir. To the southeast and southwest of the proposed AVA, the mound-intermound relief is present, but is less pronounced than in the proposed AVA because the upper depositional layers have weathered and eroded away. West of the proposed AVA is the San Joaquin Valley, whose floor has significantly flatter topography and elevations that are typically below 200 feet.

The petition also describes the climate of the proposed Paulsell Valley AVA. From 2012 to 2017, annual growing degree day (GDD)<sup>1</sup> accumulations within the proposed AVA ranged from 4,201 to 5,204. Average growing season low temperatures during the same time period were between 55.4 and 57.9 degrees Fahrenheit (F). Annual precipitation amounts during the same time period ranged from 7.6 inches to 26.4 inches. The petition states that the temperatures within the proposed AVA impact the timing of bud break, grape development and sugar accumulations, and harvest dates. The annual precipitation amounts provide adequate soil moisture and reduce the need for irrigation.

West of the proposed Paulsell Valley AVA, in the San Joaquin Valley, GDD accumulations were lower during the 2012–2017 period and ranged from 3,780 to 4,308. Precipitation amounts during the same period were also generally lower in the San Joaquin Valley than in the proposed AVA, as was the average growing season low temperature. In the region to the southwest of the proposed AVA, GDD accumulations were also generally lower than within the proposed AVA, ranging from 3,949 to 4,437. Precipitation amounts in this region were also lower than within the proposed AVA, ranging from 6.6 to 19.6 inches. East of the proposed AVA, GDD accumulations were similar to slightly lower than those within the proposed AVA, ranging from 4,586 to 4,711. Precipitation amounts were higher in the region to the east, ranging from 30.5 to 37.6 inches. Climate data was not available for the regions due north and south of the proposed AVA.

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<sup>1</sup> See Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 2nd Ed. 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

Layers of volcanic tuff, which is rock created from the deposition of volcanic ash instead of from direct lava flow, form the parent material for the most common soil types in the proposed Paulsell Valley AVA. The most common soils are the Pentz series soils, which comprise 23 percent of the soil within the proposed AVA. Soils in this series include Pentz cobbly loam and Pentz sandy loam. Soils from the Peters series account for 11 percent of the soils within the proposed AVA, while the Peters–Pentz complex make up a little more than 22 percent of the soils. The petition describes a “complex” as similar soil types mixed at such a scale that they are not defined as one type or the other.

Soils within the proposed AVA are well-drained, which helps prevent soil-borne pathogens that can harm vines. The petition states that the soils have a different mineral content and holding capacity than the soils of surrounding regions. Holding capacity impacts how much moisture from rainfall can be utilized by grape vines. The mineral content of a soil is often credited with creating subtle distinctions in the flavors of grapes.

The petition notes that Peters and Pentz soils are found in the regions to the west and southeast of the proposed Paulsell Valley AVA. However, the petition states that sharp contrasts in soils exist to the north, northeast, and south of the proposed AVA. To the north of the proposed AVA, along the floodplain of the Stanislaus River, alluvial sandy soils are abundant, including soils of the Honcut, Hanford, and Columbia series. To the northeast of the proposed AVA, the Amador and Auburn soils are more common. These soils derive from tuffaceous sediments, similar to the Pentz and Peters soils, although the Auburn soil has metamorphic parent material. Other soils in the region to the northeast of the proposed AVA include soils derived from metamorphosed igneous rocks,

such as the Exchequer soils, and soils derived from sedimentary rock, such as the Hornitos soils. South of the proposed AVA, Hopeton clays, Montpellier coarse sandy loam, and Whitney sandy loams are more common. These soils are formed from deposited sediments usually of granitic origin, or weakly consolidated sandstone of igneous material, and lack volcanic tuff material.

### **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 202 in the **Federal Register** on July 15, 2021 (86 FR 37265), proposing to establish the Paulsell Valley AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also included information from the petition comparing the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 202. In Notice No. 202, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on September 13, 2021. TTB did not receive any comments in response to Notice No. 202.

### **TTB Determination**

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Paulsell Valley AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Paulsell Valley” AVA in Stanislaus County, California, effective 30 days from the publication date of this document.

## **Boundary Description**

See the narrative description of the boundary of the Paulsell Valley AVA in the regulatory text published at the end of this final rule.

## **Maps**

The petitioner provided the required maps, and they are listed below in the regulatory text. The Paulsell Valley AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

## **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Paulsell Valley AVA, its name, “Paulsell Valley,” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name “Paulsell Valley” in a



brand name, including a trademark, or in another label reference to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Paulsell Valley AVA will not affect any existing AVA. The establishment of the Paulsell Valley AVA will allow vintners to use “Paulsell Valley” as an appellation of origin for wines made primarily from grapes grown within the Paulsell Valley AVA if the wines meet the eligibility requirements for the appellation.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

### **List of Subjects in 27 CFR Part 9**

Wine.

## **The Regulatory Amendment**

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

#### **Subpart C—Approved American Viticultural Areas**

2. Add § 9.285 to subpart C to read as follows:

##### **§ 9.285 Paulsell Valley AVA.**

(a) *Name*. The name of the viticultural area described in this section is “Paulsell Valley”. For purposes of part 4 of this chapter, “Paulsell Valley” is a term of viticultural significance.

(b) *Approved maps*. The four United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the viticultural area are titled:

- (1) Knights Ferry, California, 2015;
- (2) Keystone, California, 2015;
- (3) Cooperstown, California, 2015; and
- (4) Paulsell, California, 2015.

(c) *Boundary*. The Paulsell Valley viticultural area is located in Stanislaus County, California. The boundary of the Paulsell Valley viticultural area is as described in the following paragraphs:

(1) The beginning point is on the Knights Ferry map at the intersection of Willms Road, Kennedy Road/Sonora Road, and State Highway 108/State Highway 120. From the beginning point, proceed southeasterly along Willms Road for 7.2 miles, crossing over the Keystone map and onto the Cooperstown

map, to the intersection of Willms Road and Warnerville Road at the Warnerville Cemetery; then

(2) Proceed west, then south along Warnerville Road for a total of 0.5 mile to its intersection with Crabtree Road at the railroad tracks west of the town of Warnerville; then

(3) Proceed in a southerly direction along Crabtree Road for 6.7 miles to its intersection with the canal known locally as the Modesto Main Canal; then

(4) Proceed westerly along the canal, crossing onto the Paulsell map, and continuing along the canal for a total of 1.6 miles to the Modesto Reservoir; then

(5) Proceed along the eastern shore, then northern shore, of the Modesto Reservoir for 12.9 miles to the fifth intersection of the shore with an unnamed, intermittent creek at the northernmost point of the reservoir; then

(6) Proceed southwesterly in a straight line to the northern terminus of Reservoir Road; then

(7) Proceed south-southwest along Reservoir Road for 2.2 miles to its intersection with the 200-foot elevation contour; then

(8) Proceed northwest in a straight line for 1.2 miles to the intersection of Hazeldean Road and Tim Bell Road; then

(9) Proceed north along Tim Bell Road for 3.1 miles to its intersection with Claribel Road south of the town of Paulsell; then

(10) Proceed west along Claribel Road for 2.4 miles, crossing Cashman Creek, to the intersection of the road with the 260-foot elevation contour; then

(11) Proceed north in a straight line for 2 miles to the intersection of Warnerville Road and the 300-foot elevation contour east of Cashman Creek; then

(12) Proceed northeast in a straight line, crossing onto the Knights Ferry map and continuing for a total of 1.1 miles to the intersection of Fogarty Road and a railroad track; then

(13) Proceed east in a straight line for 0.9 mile to Paulsell Lateral; then

(14) Proceed northerly along Paulsell Lateral for 2.4 miles to its intersection with Cashman Creek; then

(15) Proceed northwest in a straight line for 1.3 miles to State Highway 108/State Highway 120; then

(16) Proceed northeast in a straight line for 2.4 miles to the third intersection of State Highway 108/State Highway 120 with the 300-foot elevation contour; then

(17) Proceed southeast along State Highway 108/State Highway 120 for 1 mile to its intersection with the 260-foot elevation contour; then

(18) Proceed northeasterly along the 260-elevation contour for 1.4 miles to its intersection with Sonora Road southeast of Knights Ferry; then

(19) Proceed southeast along Sonora Road for 0.1 mile to its intersection with Kennedy Road; then

(20) Proceed northeast, then east, then south along Kennedy Road/Sonora Road for 0.4 mile, returning to the beginning point.

Signed: May 25, 2022.

**Mary G. Ryan,**

*Administrator.*

Approved: May 26, 2022.

**Timothy E. Skud,**

*Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).*

